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PTO/SB/21 (08-03)

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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	09/457,771	
	Filing Date	December 9, 1999	
	First Named Inventor	Emanuele et al.	
	Art Unit	1635	
	Examiner Name	R. Schnizer	
Total Number of Pages in This Submission	17	Attorney Docket Number	42896-216422 (19720-0624)

ENCLOSURES (check all that apply)				
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Postcard Notice of Copy of Improper Request for Continued Examination		
<table border="1"><tr><td>Remarks</td><td></td></tr></table>			Remarks	
Remarks				
SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT				
Firm or Individual name	Sima Singadia Kulkarni			
Signature	<i>Sima Singadia Kulkarni</i>			
Date	April 12, 2004			

CERTIFICATE OF MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.			
Typed or printed name	Sima Singadia Kulkarni		
Signature	<i>Sima Singadia Kulkarni</i>	Date	April 12, 2004

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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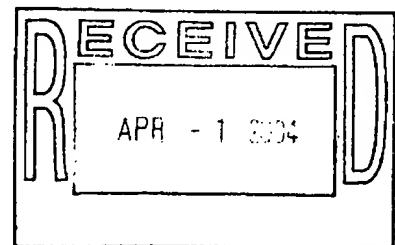


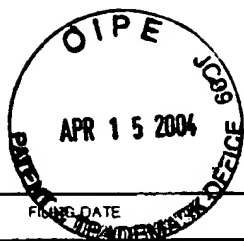
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/457,771	12/09/1999	R. MARTIN EMANUELE	19720-0624	8054
23594	7590	03/29/2004	EXAMINER	
JOHN S. PRATT KILPATRICK STOCKTON LLP 1100 PEACHTREE SUITE 2800 ATLANTA, GA 30309			SCHNIZER, RICHARD A	
			ART UNIT	PAPER NUMBER
			1635	
DATE MAILED: 03/29/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.





APPLICATION NUMBER

FILING DATE

FIRST NAMED APPLICANT

ATTY. DOCKET NO./TITLE

DATE MAILED:

NOTICE OF IMPROPER REQUEST FOR CONTINUED EXAMINATION (RCE)

The request for continued examination (RCE) under 37 CFR 1.114 filed on 3-12-04 is improper for reason(s) indicated below:

- ☐ 1. Continued examination under 37 CFR 1.114 does not apply to an application for a design patent. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d).
- ☐ 2. Continued examination under 37 CFR 1.114 does not apply to an application that was filed before June 8, 1995. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d).
- ☒ 3. Continued examination under 37 CFR 1.114 does not apply to an application unless prosecution in the application is closed. If the RCE was accompanied by a reply to a non-final Office action, the reply will be entered and considered under 37 CFR 1.111. If the RCE was not accompanied by a reply, the time period set forth in the last Office action continues to run from the mailing date of that action.
- ☐ 4. The request was not filed before payment of the issue fee, and no petition under 37 CFR 1.313 was granted. If this application has not yet issued as a patent, applicant may wish to consider filing either a petition under 37 CFR 1.313 to withdraw this application from issue, or a continuing application under 37 CFR 1.53(b).
- ☐ 5. The request was not filed before abandonment of the application. The application was abandoned, or proceedings terminated on _____. Applicant may wish to consider filing a petition under 37 CFR 1.137 to revive this abandoned application.
- ☐ 6. The request was not accompanied by the fee set forth in 37 CFR 1.17(e) as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.
- ☒ 7. The request was not accompanied by a submission as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.

Note: If a request for a continued prosecution application (CPA) under 37 CFR 1.53(d) has been filed in the utility or plant application (including a previously filed CPA) that was filed on or after May 29, 2000, the request for a CPA has been treated as a RCE because the CPA practice no longer applies to such application. The constructive RCE, however, is improper for reason(s) indicated above.

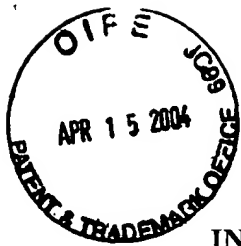
A copy of this notice MUST be returned with any reply.

Direct the reply and any questions about this notice to:

W Phillips, Examining Group 1600

(703) 30 _____
FORM PTO-2051 (Rev. 3/2001)

571 272-0548



Attorney Docket: 42896-216422
(19720-0624)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
)
Emanuele et al.)
)
Serial No.: 09/457,771) Examiner: R. Schnizer
)
Filing Date: December 9, 1999) Art Unit: 1635
)
For: THERAPEUTIC DELIVERY COMPOSITIONS AND)
METHODS OF USE THEREOF)

AMENDMENT AND RESPONSE TO OFFICE ACTION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Office Action mailed October 10, 2003, Applicants respectfully request reconsideration of the rejected claims based upon the following remarks. On March 10, 2004, Applicants filed a Request for Continued Examination for the present application based on the belief that the Office Action was a final rejection. Applicants had relied on the Office Action summary wherein the Office Action was designated as being Final. Applicants were notified of the improper Request for Continued Examination by a notice mailed from the Patent Office on March 29, 2004. In accordance with the Examiner's recommendation during a telephone conference on April 12, 2004, Applicants hereby withdraw the Request for Continued Examination and request entry of the present amendments and response. Since a petition for a three-month extension of time, together with a check in the amount of \$475.00 have already been filed, the present response is considered to be timely and properly filed.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on April 12, 2004.

Sima Singadia Kulkarni

Sima Singadia Kulkarni – Reg. No. 43,732

No additional fees are believed due; however, the Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, to Deposit Account No. 11-0855

Amendments to the Claims are reflected in the listing of claims, which begins on page 3 of this paper.

Remarks begin on page 10 of this paper.

Conclusions begin on page 16 of this paper.

A copy of the **Notice of Improper Request for Continued Examination (RCE)** is also provided herewith.